IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE A.K.BASHEER

WEDNESDAY, THE 22ND AUGUST 2007 / 31ST SRAVANA 1929

WP(C).No. 27302 of 2005(A)

PETITIONER:

R.BABU D'CRUZ (UNDER SUSPENSION),
U.D.CLERK, GOVERNMENT COLLEGE,
KOTTAYAM.

BY ADV. SRI.KURIAN GEORGE KANNAMTHANAM

RESPONDENTS:

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1. STATE OF KERALA,
REPRESENTED BY SECRETARY,
GOVERNMENT SECRETARIAT,
THIRUVANANTHAPURAM.

2. THE DIRECTOR OF COLLEGIATE EDUCATION,
VIKAS BHAVAN, TRIVANDRUM.

3. SMT.P.A.RASIYABEEVI,
SENIOR SUPERINTENDENT,
GOVERNMENT COLLEGE, KASARGODE.

BY GOVERNMENT PLEADER SMT. SUDHA

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 22/08/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

WPC NO 27302/05

APPENDIX

PETITIONER'S EXHIBITS:

EXT.P1.	COPY OF ORDER DT. 16.3.05 ISSUED FROM THE 2ND RESPONDENT
EXT.P2.	COPY OFORDER DT. 5.4.02 OF THE HIGHER Edn. (F) Dept.
EXT.P3.	COPY OF ORDER DT. 23.4.02 ISSUED FROM THE SENIOR ADMINISTRATIVE OFFICER, Edn. DEPT.
EXT.P4.	COPY OF JUDGMENT DT. 6.4.05 IN W.P.C. NO.11529 OF 2005 OF THIS HON'BLE COURT
EXT.P5.	COPY OF REGISTRATION DT. 25.4.05 FROM THE PETITIONER TO RESPONDENTS 1 & 2
EXT.P6.	COPY OF COMMUNICATION DT. 5.5.05 OF THE HIGHER EDUCATION (F) DEPT.
EXT.P7.	COPY OF LETTER DT. 1.6.05 OF -DO-
EXT.P8.	COPY OF NOTICE DT. 4.8.05 TO THE 2ND RESPONDENT
EXT.P9.	COPY OF ORDER DT. 6.8.05 OF THE 2ND RESPONDENT
EXT.P10.	COPY OF ORDER DT. 2.11.04 OF THE 2ND RESPONDENT
EXT.P11.	COPY OF MEMO OF CHARGES DT. 6.4.05 ISSUED FROM THE 2ND RESPONDENT
EXT.P12.	COPY OF REPLY DT. 28.4.05 ISSUED FROM THE PETITIONER
EXT.P13.	COPY OF COMMUNICATION DT. 1.7.05 ISSUED FROM THE 2ND RESPONDENT
EXT.P14.	COPY OF REPRESENTATION DT. 20.8.07 FILED BY THE PETITIONER TO THE 1ST RESPONDENT

/TRUE COPY/

PA TO JUDGE.

A.K. BASHEER, J.

W.P.(C). NO. 27302 OF 2005

Dated this the 22nd day of August, 2007

J U D G M E N T

Petitioner is presently working as Upper Division Clerk in the office of the Deputy Director of Collegiate Education, Kollam. His grievance is that he has been denied promotion to the higher cadres without any valid or justifiable reasons.

2. While admitting that petitioner was placed under suspension in the year 1999, the contention of the petitioner appears to be that there was absolutely no rhyme or reason to deny him future promotions solely on the ground that the criminal case pending against him is not yet over. It is pointed out by the learned Senior counsel that petitioner was placed under suspension in the year 1999 even without issuing a memo of charges. Though the petitioner was reinstated in service in the year 2002, he has been denied promotions, which fell due. In the meanwhile many of his juniors were promoted.

3. When this writ petition had come up for further consideration on May 30, 2007 this Court had directed the Station

House Officer concerned to make available the CD file in respect of the crime, which was reportedly pending against the petitioner. The detective inspector attached to the CBCID, Thiruvananthapuram, who is in charge of the investigation of Crime No.56/CR/01, had appeared before this court on June 12, 2007. He submitted that the investigation in the crime registered against the petitioner under Section 403 and 408 IPC is still in progress and it is likely to be completed within one month.

4. Learned Government Pleader submits that the investigation might have already been completed as informed by the investigating officer. Anyhow, the grievance of the petitioner that he has been denied promotion merely on the ground of pendency of the above crime has to be necessarily redressed by the Government.

5. Learned Senior counsel submits that petitioner has preferred Ext.P14 representation highlighting all the relevant aspects of the issue. The limited prayer is to issue a direction to respondent No.1 to take an appropriate decision in the matter without any further delay. Learned Senior counsel invites my attention to the fact that the issue has been hanging fire for the last more that 8 years.

In the above facts and circumstances, the writ petition is disposed of with a direction to respondent No.1 to consider and pass orders on Ext.P14 strictly on its merit and in accordance with law, as expeditiously as possible, at any rate within two months from the date of receipt of a copy of this judgment. Respondent No.1 shall ensure that petitioner is afforded sufficient opportunity to be heard before any decision is taken in the matter. The Detective Inspector, who is in charge of the crime referred to above, shall ensure that the final report is submitted, if not already done, within two weeks from the date of receipt of a copy of this judgment.

Petitioner shall produce a certified copy of the judgment along with a copy of the writ petition before respondent No.1 and the investigating officer for compliance.

A.K. BASHEER, JUDGE

vps

A.K. BASHEER, JUDGE

OP NO.20954/00

JUDGMENT

1ST MARCH, 2007